IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 7231 of 2007(J)

PETITIONER:

M.SAIFUDEEN, MANGALATTUVILA VEEDU,
ALTHARAMOODU, ALEMCODE P.O.,
ATTINGAL.

BY ADV. SRI.A.INEES

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM(RURAL)AT ATTINGAL,
REP. BY ITS SECRETARY.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM(RURAL) AT ATTINGAL.

BY GOVERNMENT PLEADER SRI.M.R. SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE APPLICATION FOR RENEWAL OF REGULAR PERMIT FILED BY THE PETITIONER DATED 2.2.2006

EXT.P2- TRUE COPY OF THE PETITION FOR CONDONATION OF DELAY DATED 2.2.06

EXT.P3- TRUE COPY OF THE MEDICAL CERTIFICATE DATED 1.2.2006

EXT.P4- TRUE COPY OF the JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA ION W.P.(C).1016/06 DATED 19.1.06

EXT.P5- TRUE COPY OF the RECEIPT FOR PAYMENT OF COMPOUNDING FEE OF RS.10,000/- DATED 19.10.2006

EXT.P6- TRUE COPY OF THE JUDGMENT OF THE STATE TRANSPORT APPELLATE TRIBUNAL IN M.V.A.A.NO. 302/2006 DATED 8.11.06

EXT.P7- TRUE COPY OF the PROCEEDOINGS OF THE 1ST RESPONDENT DATED 11.12.06 IN ITEM NO.19.

EXT.P8- TRUE COPY OF THE JUDGMENT OF THE STATE TRANSPORT APPELLATE TRIBUNAL IN MVAA NO.45/2007 DATED 6.2.07

EXT.P9- TRUE COPY OF THE COVERING LETTER DATED 15.2.07 PRODUCING EXT.P8

EXT.P10- TRUE COPY OF THE PRESENT TEMPORARY PERMIT OF THE PETITIONER'S STAGE CARRIAGE KL-16/B-36 VALID FROM 13.11.06 TO 12.3.07

EXT.P11- TRUE COPY OF THE APPLICATION FOR FURTHER TEMPORARY PERMIT FILED BY THE PETITIONER DATED 17.2.2007

(TRUE COPY)

P.A TO JUDGE

ANTONY DOMINIC, J

W.P.(C).7231/2007

Dated this the 29th day of November, 2007

JUDGMENT

Ext.P1 is an application made by the petitioner for renewal of permit.

2. Since there was delay in making the application, petitioner also filed Ext.P2 application for condonation of delay. That was declined by the RTA and the appeal filed before the STAT against that of the RTA decision was also disposed of by Ext.P6 remanding the matter back to the RTA. Accordingly, RTA reconsidered the matter and rejected the application by Ext.P7. Against that decision, an appeal was filed and the appeal was allowed by Ext.P8 judgment of the STAT and RTA was directed to renew the permit provided, the offence of operating service without permit has been compounded by the petitioner and that the renewal application was filed in time.

3. Now the petitioner is aggrieved by the last portion of the judgment wherein, reconsideration is directed only if

the application of the petitioner is filed in time. According to the petitioner, an application filed for renewal of permit even if it is a belated one, is liable to be considered in terms of the provisions contained in Section 81 of the Motor Vehicles Act. Petitioner also referred to Ext.P4 judgment of this Court in W.P.(C). 1016/2006.

4. As at present, Ext.P1 application for renewal of permit and Ext.P2 application for condonation of delay remains to be considered by the first respondent. The only obstacle in this regard is the direction of STAT that the application should have been filed within time. The question is whether STAT was justified in incorporating such a condition. In my view, since statue itself provides for consideration of a belated application by virtue of Sub Section (3) of Section 81 of the Act, STAT was not justified in placing such a falter on the power of RTA in considering the application for renewal.

5. Accordingly I dispose of this writ petition directing the first respondent to consider Exts.P1 application for renewal of permit and P2 application for condonation of delay in the light of the provisions contained in the Act and also in the light of Ext.P4 judgment and pass orders on Exts.P1 and P2 as expeditiously as possible.

ANTONY DOMINIC
Judge

mrcs